

1 AN ACT

2 relating to the handling, settling, and use of certain claims in the
3 insurance business; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. WATER DAMAGE CLAIMS

6 SECTION 1.01. Subchapter C, Chapter 5, Insurance Code, is
7 amended by adding Article 5.35-4 to read as follows:

8 Art. 5.35-4. RESTRICTIONS ON USE OF CLAIMS HISTORY FOR
9 WATER DAMAGE

10 Sec. 1. PURPOSE. The purpose of this article is to protect
11 persons and property from being unfairly stigmatized in obtaining
12 residential property insurance by the filing of a water damage
13 claim or claims under a residential property insurance policy.

14 Sec. 2. DEFINITIONS. In this article:

15 (1) "Insurer" means an insurance company, reciprocal
16 or interinsurance exchange, mutual, capital stock company, county
17 mutual insurance company, farm mutual insurance company,
18 association, Lloyd's plan company, or other entity writing
19 residential property insurance in this state. The term includes an
20 affiliate as described by Section 2, Article 21.49-1 of this code,
21 or Section 823.003(a) of this code if that affiliate is authorized
22 to write and is writing residential property insurance in this
23 state. The term does not include the Texas Windstorm Insurance
24 Association created and operated under Article 21.49 of this code

1 or the FAIR Plan created and operated under Article 21.49A of this
2 code.

3 (2) "Residential property insurance" means insurance
4 against loss to residential real property at a fixed location or
5 tangible personal property provided in a homeowners policy, which
6 includes a tenant policy, a condominium owners policy, or a
7 residential fire and allied lines policy.

8 (3) "Underwriting guideline" means a rule, standard,
9 guideline, or practice, whether written, oral, or electronic, that
10 is used by an insurer or an agent of an insurer to decide whether to
11 accept or reject an application for a residential property
12 insurance policy or to determine how to classify the risks that are
13 accepted for the purpose of determining a rate.

14 Sec. 3. RESTRICTIONS ON USE OF CLAIMS HISTORY FOR WATER
15 DAMAGE. (a) Underwriting guidelines relating to a water damage
16 claim or claims used by an insurer shall be governed by rules
17 adopted by the commissioner in accordance with the purpose of this
18 article. An insurer may not use an underwriting guideline relating
19 to a water damage claim or claims that is not in accordance with the
20 rules adopted by the commissioner under this article.

21 (b) An insurer shall file with the department its
22 underwriting guidelines relating to a water damage claim or claims
23 in accordance with the rules adopted by the commissioner.

24 (c) Except as provided by Subsection (e) of this section, an
25 insurer may not use a prior appliance-related claim filed by a
26 person as a basis for determining the rate to be paid by the person
27 for insurance coverage or for determining whether to issue, renew,

1 or cancel an insurance policy to or for the person if the person:

2 (1) properly remediated the prior appliance-related
3 claim; and

4 (2) had the remediation inspected and certified by a
5 person or entity knowledgeable and experienced in the remediation
6 of water damage.

7 (d) Except as provided by Subsection (e) of this section, an
8 insurer may not use a prior appliance-related claim filed regarding
9 specific property as a basis for determining the rate to be paid by
10 a person for insurance coverage for that property or for
11 determining whether to issue, renew, or cancel an insurance policy
12 to or for a person seeking insurance coverage for that property if
13 the prior appliance-related claim was properly remediated and was
14 inspected and certified by a person knowledgeable and experienced
15 in remediation of water damage.

16 (e) Subsections (c) and (d) of this section do not apply to:

17 (1) a person who has made and has received payment for
18 three or more appliance-related claims within a three-year period;
19 or

20 (2) specific property that has been the subject of
21 three or more appliance-related claims within a three-year period.

22 Sec. 4. RULEMAKING AUTHORITY. The commissioner shall adopt
23 rules to accomplish the purposes of this article, including rules
24 with regard to the definition of a water damage claim.

25 SECTION 1.02. Article 5.35-4, Insurance Code, as added by
26 this article, applies only to a residential property insurance
27 policy that is delivered or issued for delivery based on an

1 application that is submitted on or after the effective date of this
2 Act.

3 ARTICLE 2. CLAIMS HANDLING PROCEDURES AND TIME FRAMES

4 SECTION 2.01. Subchapter E, Chapter 21, Insurance Code, is
5 amended by adding Article 21.55A to read as follows:

6 Art. 21.55A. WATER DAMAGE CLAIMS

7 Sec. 1. PURPOSES. The purposes of this article are to:

8 (1) provide for the prompt, efficient, and effective
9 handling and processing of water damage claims filed under
10 residential property insurance policies, including claims
11 involving losses due to mold;

12 (2) reduce the confusion and inconvenience
13 policyholders experience in filing and resolving water damage
14 claims filed under residential property insurance policies,
15 including claims involving losses due to mold; and

16 (3) reduce claim costs and premiums for residential
17 property insurance issued in this state.

18 Sec. 2. APPLICABILITY. This article applies to any insurer
19 that handles or processes water damage claims filed under
20 residential property insurance policies.

21 Sec. 3. RULES. (a) The commissioner may adopt rules that
22 identify the types of water damage claims that require more prompt,
23 efficient, and effective processing and handling than the
24 processing and handling required under Article 21.55 of this code.

25 (b) The commissioner by rule may regulate the following
26 aspects of water damage claims:

27 (1) required notice;

- 1 (2) acceptance and rejection of a claim;
- 2 (3) claim handling and processing procedures and time
- 3 frames;
- 4 (4) claim investigation requirements, procedures, and
- 5 time frames;
- 6 (5) settlement of claims; and
- 7 (6) any other area of claim processing, handling, and
- 8 response determined to be relevant and necessary by the
- 9 commissioner.

10 (c) A rule adopted under this section supersedes the minimum
11 standards described by Article 21.55 of this code.

12 ARTICLE 3. LICENSING OF PUBLIC INSURANCE ADJUSTERS

13 SECTION 3.01. Subsection (b), Section 1, Chapter 407, Acts
14 of the 63rd Legislature, Regular Session, 1973 (Article 21.07-4,
15 Vernon's Texas Insurance Code), is amended to read as follows:

16 (b) "Adjuster" shall not include:

- 17 (1) an attorney at law who adjusts insurance losses
- 18 from time to time and incidental to the practice of law, and who
- 19 does not advertise or represent that he is an adjuster;
- 20 (2) a salaried employee of an insurer who is not
- 21 regularly engaged in the adjustment, investigation, or supervision
- 22 of insurance claims;
- 23 (3) persons employed only for the purpose of
- 24 furnishing technical assistance to a licensed adjuster, including,
- 25 but not limited to, photographers, estimators, private detectives,
- 26 engineers, handwriting experts, and attorneys at law;
- 27 (4) a licensed agent or general agent of an authorized

1 insurer who processes undisputed and/or uncontested losses for such
2 insurer under policies issued by said agent or general agent;

3 (5) a person who performs clerical duties with no
4 negotiations with the parties on disputed and/or contested claims;

5 (6) any person who handles claims arising under life,
6 accident and health insurance policies;

7 (7) a person who is employed principally as a
8 right-of-way agent or right-of-way and claims agent and whose
9 primary responsibility is the acquisition of easements, leases,
10 permits, or other real property rights and whose claims handling
11 arises out of operations under those easements, leases, permits, or
12 other contracts or contractual obligations; [~~or~~]

13 (8) an individual who is employed to investigate
14 suspected fraudulent insurance claims but who does not adjust
15 losses or determine claims payments; or

16 (9) a public insurance adjuster who is licensed under
17 Article 21.07-5, Insurance Code.

18 SECTION 3.02. Subchapter A, Chapter 21, Insurance Code, is
19 amended by adding Article 21.07-5 to read as follows:

20 Art. 21.07-5. PUBLIC INSURANCE ADJUSTERS

21 Sec. 1. DEFINITIONS. In this article:

22 (1) "Licensee" means a person licensed under this
23 article as a public insurance adjuster.

24 (2) "Person" includes an individual, firm, company,
25 association, organization, partnership, limited liability company,
26 or corporation.

27 (3)(A) "Public insurance adjuster" means:

1 (i) a person who, for direct, indirect, or
2 any other compensation:

3 (a) acts on behalf of an insured in
4 negotiating for or effecting the settlement of a claim or claims for
5 loss or damage under any policy of insurance covering real or
6 personal property; or

7 (b) on behalf of any other public
8 insurance adjuster, investigates, settles, or adjusts or advises or
9 assists an insured with a claim or claims for loss or damage under
10 any policy of insurance covering real or personal property; or

11 (ii) a person who advertises, solicits
12 business, or holds himself or herself out to the public as an
13 adjuster of claims for loss or damage under any policy of insurance
14 covering real or personal property.

15 (B) "Public insurance adjuster" does not
16 include:

17 (i) an officer or employee of the federal or
18 state government or of a political subdivision of the state
19 government while the officer or employee is engaged in the
20 performance of official duties;

21 (ii) an attorney engaged in the performance
22 of the attorney's professional duties;

23 (iii) insurers admitted to do business in
24 the state, and agents licensed by this state, engaged in the
25 performance of their duties in connection with insurance
26 transactions;

27 (iv) the legal owner of personal property

1 that has been sold under a conditional sales agreement or a
2 mortgagee under the terms of a chattel mortgage;

3 (v) any salaried office employee who
4 performs exclusively clerical or administrative duties attendant
5 to the disposition of the business regulated by this article;

6 (vi) photographers, estimators,
7 appraisers, engineers, and arbitrators who are employed by a public
8 insurance adjuster exclusively for the purpose of furnishing
9 technical assistance to the licensed public insurance adjuster;

10 (vii) a private investigator licensed under
11 Chapter 1702, Occupations Code, while acting within the scope of
12 that license; or

13 (viii) a full-time salaried employee of a
14 property owner or a property management company retained by a
15 property owner who:

16 (a) does not hold the employee out as
17 a public insurance adjuster or a building, roofing, or other
18 restoration contractor;

19 (b) has not been hired for the purpose
20 of handling a specific claim resulting from a fire or casualty loss;
21 and

22 (c) acts at the sole discretion of the
23 property owner or management company regarding a claim related to
24 the owner's property.

25 Sec. 2. NOT LAW LICENSE. Nothing in this article shall be
26 construed as entitling any person who is not licensed by the Supreme
27 Court of Texas to practice law in this state.

1 Sec. 3. LICENSE REQUIRED; EXEMPTION. (a) A person may not
2 act as a public insurance adjuster in this state or hold himself or
3 herself out to be a public insurance adjuster in this state, unless
4 the person holds a license or certificate issued by the
5 commissioner under Section 5, 15, or 16 of this article.

6 (b) A license is not required for:

7 (1) an attorney licensed to practice law in this state
8 who has complied with Section 5(a)(6) of this article; or

9 (2) a person licensed as a general property and
10 casualty agent under Article 21.14 of this code while acting for an
11 insured concerning a loss under a policy issued by that agent.

12 (c) Any contract for services regulated by this article that
13 is entered into by an insured with a person who is in violation of
14 Subsection (a) of this section may be voided at the option of the
15 insured, and if a contract is so voided, the insured shall not be
16 liable for the payment of any past services rendered, or future
17 services to be rendered, by that person under that contract or
18 otherwise.

19 (d) If the commissioner believes that a person is engaging
20 in acts or practices in violation of Subsection (a) of this section,
21 the commissioner ex parte may issue an emergency cease and desist
22 order, in accordance with Subchapter B, Chapter 83, of this code
23 requiring the person to immediately cease and desist from engaging
24 further in the acts or practices.

25 Sec. 4. APPLICATION FOR LICENSE. (a) An application for a
26 license under this article must be on a form prescribed by the
27 commissioner.

1 (b) The completed application must be notarized and be
2 accompanied by a license application fee, as provided by Section 11
3 of this article, for each application submitted. The application
4 fee is nonrefundable.

5 Sec. 5. QUALIFICATIONS FOR LICENSE; ISSUANCE. (a) The
6 commissioner shall issue a public insurance adjuster license to an
7 applicant on determining that the application meets the
8 requirements of this article, that the license application fee has
9 been paid, and that the applicant is an individual who:

10 (1) is at least 18 years of age;

11 (2) is a citizen of the United States or has complied
12 with all federal laws pertaining to employment or to the
13 transaction of business in the United States;

14 (3) is a resident of this state;

15 (4) is trustworthy and of a moral character that
16 reasonably ensures that the applicant will conduct the business of
17 a public insurance adjuster fairly and in good faith without
18 detriment to the public;

19 (5) has not been convicted of a felony in the 10 years
20 immediately preceding filing an application under this article or,
21 if convicted of a felony in the 10 years immediately preceding
22 filing an application under this article, has received a full
23 pardon from that conviction and is otherwise relieved from any
24 disabilities connected with that conviction;

25 (6) has sufficient experience or training relating to
26 the assessment of:

27 (A) real and personal property values; and

1 (B) physical loss of or damage to real or
2 personal property that may be the subject of insurance and claims
3 under insurance;

4 (7) is sufficiently informed as to the terms and
5 effects of the types of insurance contracts that provide coverage
6 on real and personal property;

7 (8) possesses knowledge and experience adequate to
8 enable the applicant to engage in the business of a public insurance
9 adjuster fairly and without injury to the public or any member of
10 the public with whom the applicant may have business as a public
11 insurance adjuster;

12 (9) has successfully passed the license examination
13 prescribed under Section 8 of this article or is exempt from the
14 examination requirement under this article;

15 (10) has complied with the financial responsibility
16 requirements imposed under Section 6 of this article; and

17 (11) has complied with any other requirements under
18 applicable state law, including providing a complete set of
19 fingerprints on request as provided by Article 1.10C of this code.

20 (b) The commissioner may issue a resident public insurance
21 adjuster license to an applicant who has been convicted of a felony
22 11 or more years before filing an application under this article if
23 the commissioner determines that the applicant is qualified to act
24 as a public insurance adjuster and that the circumstances
25 surrounding the applicant's conviction do not warrant the denial of
26 a license issued under this chapter.

27 Sec. 5A. ISSUANCE OF LICENSE TO BUSINESS ENTITY. (a) The

1 department shall adopt rules necessary to issue a public insurance
2 adjuster license to a business entity organized under the laws of
3 this state.

4 (b) Rules adopted by the department under Subsection (a) of
5 this section must:

6 (1) be analogous to the provisions of Section 2,
7 Article 21.07 of this code; and

8 (2) contain qualifications for the issuance of a
9 public insurance adjuster license analogous to the qualifications
10 described by Section 5 of this article.

11 (c) The department may not issue a public insurance adjuster
12 license to a business entity described by Subsection (a) of this
13 section unless at least one officer, active partner, or other
14 managing individual of the business entity and each individual
15 performing acts of a public insurance adjuster on behalf of the
16 business entity in this state are individually licensed by the
17 department separately from the business entity by the department
18 under Section 5 of this article.

19 Sec. 6. FINANCIAL RESPONSIBILITY REQUIREMENTS. (a) As a
20 continuing condition of licensure, a public insurance adjuster must
21 file proof of financial responsibility with respect to transactions
22 with insureds under this article in an amount determined by the
23 commissioner by rule. The financial responsibility shall include
24 the ability to pay sums the public insurance adjuster is obligated
25 to pay under any judgment against the public insurance adjuster by
26 an insured, based on an error, omission, fraud, negligent act, or
27 unfair practice of the public insurance adjuster or any person for

1 whose acts the public insurance adjuster is legally liable in the
2 transaction of the public insurance adjuster's business under this
3 code. In determining the amount of the financial responsibility
4 requirement, the commissioner shall consider the nature of the
5 obligation, other financial security requirements under this code,
6 and financial security requirements adopted for public insurance
7 adjusters in other states. In determining the types of financial
8 responsibility required, the commissioner may consider a surety
9 bond or a professional liability policy or similar policy or
10 contract of professional liability coverage acceptable to the
11 commissioner.

12 (b) In addition to any other remedy available under this
13 code, if the commissioner believes that a person is committing a
14 violation by failing to maintain the financial responsibility
15 requirements of this section, the commissioner ex parte may issue
16 an emergency cease and desist order and suspend the person's
17 license, in accordance with Subchapter B, Chapter 83 of this code,
18 requiring the person to immediately cease and desist from engaging
19 in the activities of a public insurance adjuster.

20 (c) A license suspended under Subsection (b) of this section
21 may be reinstated on the approval of an application for
22 reinstatement filed with the commissioner, in the form prescribed
23 by the commissioner, with proof that the financial responsibility
24 requirements of this section have been met. The commissioner may
25 deny the application for reinstatement:

26 (1) for any reason that would justify a refusal to
27 issue, or a suspension or revocation of, a license; or

1 (2) for the performance by the applicant of any
2 practice for which a license under this article is required while
3 the applicant is under suspension for failure to keep the financial
4 responsibility requirements in force.

5 Sec. 7. LICENSE AUTHORIZATION. A license issued under
6 Section 5, 5A, 15, or 15A of this article authorizes the adjusting
7 of claims on behalf of insureds for fire and allied coverages,
8 burglary, flood, and all other property claims, both real and
9 personal, including loss of income, but only when the client is an
10 insured under the insurance policy.

11 Sec. 8. EXAMINATION FOR LICENSE; ADVISORY COMMITTEE.

12 (a) Each applicant for a license as a public insurance adjuster
13 must, before the issuance of the license, take and pass an
14 examination to the satisfaction of the commissioner.

15 (b) The examination required by this section must be
16 prescribed by the commissioner and must be of sufficient scope to
17 reasonably test the applicant's:

18 (1) knowledge of basic insurance theory, essential
19 elements of contracts, and claims ethics;

20 (2) technical competence in the handling of the types
21 of claims for which the applicant is being tested; and

22 (3) knowledge of:

23 (A) Article 21.21 of this code;

24 (B) the Unauthorized Insurers False Advertising
25 Process Act (Article 21.21-1, Vernon's Texas Insurance Code);

26 (C) Article 21.21-2 of this code;

27 (D) Article 21.55 of this code;

1 (E) the Deceptive Trade Practices-Consumer
2 Protection Act (Subchapter E, Chapter 17, Business & Commerce
3 Code);

4 (F) analogous laws as specified by the
5 commissioner;

6 (G) statutory provisions related to the
7 unauthorized practice of law contained in Subchapter G, Chapter 81,
8 Government Code; and

9 (H) the duties and responsibilities of public
10 insurance adjusters under the law.

11 (c) The commissioner may appoint a public insurance
12 adjusters examination advisory committee composed of at least five
13 members to assist in developing the examination required by this
14 section. At least three members must be eligible for licensure as
15 public insurance adjusters. At least one member must be a person
16 from the insurance industry who is not a public insurance adjuster,
17 and at least one member must represent consumer interests. A member
18 of the advisory committee is not entitled to compensation for
19 service on the committee. A member is entitled to reimbursement for
20 reasonable and necessary expenses incurred in performing services
21 for the committee, subject to any limitation in the General
22 Appropriations Act.

23 (d) The commissioner shall, within a reasonable period not
24 to exceed 30 days after the date of the examination, transmit the
25 results of the examination and the action taken on the application
26 to the applicant.

27 (e) An examination is not required for the renewal of a

1 license issued under Section 5, 5A, 15, or 15A of this article.

2 Sec. 9. EXAMINATION; FORM; TIME. (a) The answers of an
3 examinee to an examination required under this article shall be
4 made by the examinee in writing. A written examination may be
5 supplemented by oral examination.

6 (b) The examination shall be given at such times and places
7 within the state as the commissioner deems necessary to reasonably
8 serve the convenience of both the commissioner and examinees.

9 (c) The commissioner may require a waiting period of
10 reasonable duration before an examinee who fails the examination,
11 but who is otherwise qualified, may be reexamined.

12 (d) The scheduling and administration of examinations
13 required under Section 8 of this article shall be effected by
14 persons approved by the commissioner.

15 Sec. 10. FORM OF LICENSE. The commissioner shall prescribe
16 the form of the licenses issued under Section 5, 5A, 15, or 15A of
17 this article, which must contain:

18 (1) the name of the public insurance adjuster and the
19 address of the public insurance adjuster's place of business;

20 (2) the date of issuance and the date of expiration of
21 the license; and

22 (3) if applicable, the name of the firm with whom the
23 public insurance adjuster is employed at the time the license is
24 issued.

25 Sec. 11. FEE FOR LICENSE, RENEWAL, AND EXAMINATION.

26 (a) The commissioner shall collect in advance the following
27 nonrefundable fees:

1 (1) for a public insurance adjuster license, an
2 application fee in an amount to be determined by rule by the
3 commissioner;

4 (2) for a nonresident public insurance adjuster
5 license, an application fee in an amount to be determined by rule by
6 the commissioner;

7 (3) for each public insurance adjuster examination, a
8 fee in an amount to be determined by rule by the commissioner; and

9 (4) for a public insurance adjuster trainee
10 certificate under Section 16 of this article, a registration fee in
11 an amount to be determined by rule by the commissioner.

12 (b) The amount of the fee for the renewal of a license or a
13 certificate issued under this article shall be determined by rule
14 by the commissioner.

15 Sec. 12. USE OF FEES COLLECTED. (a) When collected, the
16 fees authorized by this article shall be deposited with the
17 comptroller to the credit of the Texas Department of Insurance
18 operating account.

19 (b) The department may use any portion of the fees collected
20 to enforce this article, to employ persons as it considers
21 necessary to investigate and make reports regarding alleged
22 violations of this code and misconduct on the part of public
23 insurance adjusters, and to pay the salaries and expenses of
24 persons and office employees and other expenses necessary to
25 enforce this article. A person employed by the department under
26 this section may examine under oath any person for the purpose of
27 gathering information and evidence and may have the information and

1 evidence reduced to writing. All expenses incurred under this
2 section shall be paid from the fees collected under this article.

3 (c) The commissioner shall set the fees in amounts
4 reasonable and necessary to implement this article.

5 Sec. 13. PLACE OF BUSINESS; AGENT FOR SERVICE OF PROCESS.

6 (a) Each licensee who is a resident of this state or a business
7 entity organized under the laws of this state shall maintain a place
8 of business in this state that is accessible to the general public
9 and maintain in the place of business the records required by this
10 article. The address of the place of business must appear on the
11 face of the license. The licensee shall promptly notify the
12 commissioner of any change in the address of the licensee's place of
13 business.

14 (b) Each nonresident licensee shall maintain an agent in
15 this state for service of process. The name and address of the
16 nonresident licensee's out-of-state business address and the name
17 and address of the agent must appear on the face of the license. The
18 licensee shall promptly notify the department of any change in the
19 address of the licensee's place of business or in the agent for
20 service of process.

21 (c) A license issued under this article must at all times be
22 posted in a conspicuous place in the principal place of business of
23 the licensee.

24 Sec. 14. LICENSE NOT ASSIGNABLE. A license issued under
25 this article is not assignable.

26 Sec. 15. NONRESIDENT LICENSE. (a) The commissioner may
27 issue a nonresident license to an applicant for a public insurance

1 adjuster license who is not a permanent resident of this state on
2 determining that the application meets the requirements of this
3 article, that the nonresident license application fee has been
4 paid, and that the applicant is an individual who:

5 (1) is at least 18 years of age;

6 (2) has passed, to the satisfaction of the
7 commissioner, an examination approved by the commissioner and of
8 sufficient scope as prescribed by Section 8 of this article,
9 provided, however, that the requirement for such an examination
10 does not apply to:

11 (A) an applicant who is licensed as a resident
12 public insurance adjuster in the applicant's state of residence, if
13 the state requires the passing of a written examination in order to
14 obtain the license and a reciprocal agreement with the appropriate
15 official of that state has been entered into by the department; or

16 (B) an applicant who is licensed as a nonresident
17 public insurance adjuster in a state other than the applicant's
18 state of residence, if the state of licensure requires the passing
19 of a written examination in order to obtain the license and a
20 reciprocal agreement with the appropriate official of the state of
21 licensure has been entered into by the department;

22 (3) is self-employed as a public insurance adjuster or
23 associated with or employed by a public insurance adjusting firm or
24 other public insurance adjuster;

25 (4) is trustworthy and of a moral character that
26 reasonably ensures that the applicant will conduct the business of
27 a public insurance adjuster fairly and in good faith without

1 detriment to the public;

2 (5) has never been convicted of a felony or, if
3 convicted of a felony, has received a full pardon from that
4 conviction and is otherwise relieved from any disabilities
5 connected with that conviction;

6 (6) has sufficient experience or training relating to
7 the assessment of:

8 (A) real and personal property values; and

9 (B) physical loss of or damage to real or
10 personal property that may be the subject of insurance and claims
11 under insurance;

12 (7) is sufficiently informed as to the terms and
13 effects of the types of insurance contracts that provide coverage
14 on real and personal property;

15 (8) possesses knowledge and experience adequate to
16 enable the applicant to engage in the business of a public insurance
17 adjuster fairly and without injury to the public or any member of
18 the public with whom the applicant may have business as a public
19 insurance adjuster;

20 (9) if currently licensed as a resident public
21 insurance adjuster in the applicant's state of residence, provides
22 with the application a certificate or letter of authorization from
23 the licensing authority of the applicant's state of residence,
24 stating that the applicant holds a current or comparable license to
25 act as a public insurance adjuster; the certificate or letter must
26 be signed by the appropriate licensing official of the applicant's
27 state of residence and must disclose whether the applicant has ever

1 had any license or eligibility to hold any license declined,
2 denied, suspended, or revoked and whether the applicant has ever
3 been placed on probation and whether an administrative fine or
4 penalty has been levied against the applicant and, if so, the reason
5 for the action;

6 (10) if the applicant's state of residence does not
7 require licensure as a resident public insurance adjuster and the
8 applicant has been licensed as an adjuster, agent, broker, or other
9 insurance representative in the applicant's state of residence or
10 any other state within the past three years, provides with the
11 application a certificate or letter of authorization from the
12 licensing authority stating that the applicant holds or has held a
13 license to act as an adjuster, agent, broker, or other insurance
14 representative; the certificate or letter must be signed by the
15 appropriate licensing official and must disclose whether the
16 applicant has ever had any license or eligibility to hold any
17 license declined, denied, suspended, or revoked and whether the
18 applicant has ever been placed on probation and whether an
19 administrative fine or penalty has been levied against the
20 applicant and, if so, the reason for the action;

21 (11) files proof of financial responsibility in
22 accordance with Section 6 of this article;

23 (12) pays the application fee required by Section 11
24 of this article; and

25 (13) complies with any other requirements under
26 applicable state law, including providing a complete set of
27 fingerprints on request as provided by Article 1.10C of this code.

1 (b) A nonresident licensee shall comply with all of the
2 requirements of this article in performing any of the activities of
3 a public insurance adjuster in this state, including the
4 requirements on record maintenance in Section 24 of this article.
5 The failure of a nonresident licensee, as determined by the
6 commissioner after notice and an opportunity for a hearing, to
7 properly maintain records in accordance with this article and make
8 them available to the department on request constitutes grounds for
9 the suspension of the nonresident license issued under this
10 article, in accordance with Section 30 of this article.

11 (c) Each individual who holds a nonresident license shall
12 comply with all other laws and rules of this state applicable to
13 public insurance adjusters, including the law governing the
14 collection of state sales tax as appropriate for services performed
15 under this article.

16 (d) After licensure as a nonresident public insurance
17 adjuster, as a condition of doing business in this state, the
18 licensee must annually, not later than January 1 and on a form
19 prescribed by the commissioner, submit an affidavit certifying that
20 the licensee is familiar with and understands the laws specified in
21 Section 8 of this article, the applicable rules adopted under those
22 laws, and the terms and conditions of the types of insurance
23 contracts that provide coverage on real and personal property.
24 Compliance with the filing requirement provided by this subsection
25 is necessary for the issuance, continuation, reinstatement, or
26 renewal of a nonresident public insurance adjuster license.

27 (e) A nonresident licensee is subject to Section 6(b) of

1 this article, relating to failure to maintain the financial
2 responsibility requirements.

3 Sec. 15A. LICENSE FOR NONRESIDENT BUSINESS ENTITY.

4 (a) The department shall adopt rules necessary to issue a public
5 insurance adjuster license to a business entity organized under the
6 laws of another state or the United States.

7 (b) Rules adopted by the department under Subsection (a) of
8 this section must:

9 (1) be analogous to the provisions of Section 2,
10 Article 21.07 of this code; and

11 (2) contain:

12 (A) qualifications for the issuance of a public
13 insurance adjuster license analogous to the qualifications
14 described by Section 15 of this article; and

15 (B) requirements for the performance of the
16 duties and powers of a public insurance adjuster analogous to the
17 requirements described by Section 15 of this article.

18 (c) The department may not issue a public insurance adjuster
19 license to a business entity described by Subsection (a) of this
20 section unless at least one officer, active partner, or other
21 managing individual of the business entity and each individual
22 performing acts of a public insurance adjuster on behalf of the
23 business entity in this state are individually licensed by the
24 department separately from the business entity under Section 15 of
25 this article.

26 Sec. 16. REGISTRATION PROGRAM FOR TRAINEES. (a) A public
27 insurance adjuster trainee must register with the department for a

1 temporary certificate under this section. An applicant for a
2 temporary certificate as a trainee must apply to the commissioner
3 on a form prescribed by the commissioner. The form must be
4 accompanied by a nonrefundable registration fee as prescribed by
5 Section 11(a)(4) of this article.

6 (b) A temporary certificate may be issued under this section
7 only for educational and training purposes. The holder of a
8 temporary certificate may practice only under the direction and
9 sponsorship of a licensee of this state.

10 (c) The sponsor of a public insurance adjuster trainee shall
11 attest, on a form prescribed by the commissioner, that the trainee
12 is under the supervision and control of the sponsor and that the
13 sponsor has met the financial responsibility requirements of
14 Section 6 of this article.

15 (d) A temporary certificate expires on the 180th day after
16 the date of issuance and may be renewed once on application to the
17 commissioner. An individual is not entitled to hold more than two
18 consecutive temporary certificates.

19 (e) Each individual who holds a temporary certificate under
20 this section must comply with the financial responsibility
21 requirements imposed under Section 6 of this article.

22 Sec. 17. CONDUCT TO COMPLY WITH CONTRACT. A licensee shall
23 prepare each claim for an insured represented by the licensee in
24 accordance with the terms and conditions of the contract of
25 insurance under which recovery is sought.

26 Sec. 18. CODE OF ETHICS. The commissioner, with guidance
27 from the public insurance adjusters examination advisory

1 committee, by rule shall adopt:

2 (1) a code of ethics for public insurance adjusters
3 that fosters the education of public insurance adjusters concerning
4 the ethical, legal, and business principles that should govern
5 their conduct;

6 (2) recommendations regarding the solicitation of the
7 adjustment of losses by public insurance adjusters; and

8 (3) any other principles of conduct or procedures that
9 the commissioner deems necessary and reasonable.

10 Sec. 19. PUBLIC INSURANCE ADJUSTER AUTHORITY. This article
11 does not limit or diminish the authority of a licensee to
12 investigate or adjust a loss to less than the authority for that
13 purpose that may be exercised by an adjuster licensed under Chapter
14 407, Acts of the 63rd Legislature, Regular Session, 1973 (Article
15 21.07-4, Vernon's Texas Insurance Code).

16 Sec. 20. LICENSE RENEWAL. (a) A license issued under this
17 article expires on the second anniversary of the date of issuance
18 unless suspended or revoked by the commissioner. A licensee may
19 renew a license that has not expired and has not been suspended or
20 revoked by filing with the department a properly completed renewal
21 application, in the form prescribed by the commissioner, that
22 demonstrates continued compliance with the license requirements
23 imposed under this article or adopted by rule by the commissioner.
24 The completed renewal application must be accompanied by:

25 (1) a renewal fee in the amount determined by the
26 commissioner under Section 11(b) of this article; and

27 (2) evidence of compliance with the continuing

1 education requirements imposed under Section 21 of this article.

2 (b) A licensee must submit the completed renewal
3 application, evidence of compliance with the continuing education
4 requirements, and the renewal fee to the commissioner not later
5 than the 30th day before the second anniversary date of the license.
6 On the filing of a completed renewal application, renewal fee, and,
7 if applicable, evidence of compliance with the continuing education
8 requirements, the original license continues in force until:

9 (1) the department issues the renewal license; or

10 (2) the commissioner issues an order revoking the
11 license.

12 (c) A person whose license has been expired for 90 days or
13 less may renew the license by filing a completed renewal
14 application in the form prescribed by the commissioner and evidence
15 of compliance with the continuing education requirements and by
16 paying to the department the required renewal fee and an additional
17 fee that is equal to one-half of the renewal fee for the license.

18 (d) A person whose license has been expired for more than 90
19 days but less than one year may not renew the license but is
20 entitled to a new license without taking the applicable examination
21 if the person submits to the department a new application, evidence
22 of compliance with the continuing education requirements, the
23 license fee, and an additional fee equal to one-half of the license
24 fee.

25 (e) A person whose license has been expired for one year or
26 more may not renew the license. The person may obtain a new license
27 by submitting to reexamination, if examination is required for

1 original issuance of the license, and by complying with the
2 requirements and procedures for obtaining an original license.

3 (f) The department may renew without reexamination an
4 expired license of a person who was licensed in this state, moved to
5 another state, and is currently licensed and has been in continual
6 practice in the other state up to and including the date of the
7 application. The person must pay to the department a fee that is
8 equal to the license fee.

9 (g) At least 30 days before the expiration of a license, the
10 department shall send written notice of the impending license
11 expiration to the licensee at the licensee's last known mailing
12 address according to the records of the department.

13 Sec. 21. CONTINUING EDUCATION REQUIREMENT. (a) Each
14 licensee must annually complete at least 15 hours of continuing
15 education courses. The commissioner by rule shall prescribe the
16 requirements for continuing education courses under this section.

17 (b) Notwithstanding Subsection (a) of this section, the
18 commissioner may waive any continuing education requirement for a
19 nonresident public insurance adjuster with a valid license from
20 another state having continuing education requirements
21 substantially equivalent to those of this state.

22 Sec. 22. COMMISSION. (a) Except as provided by Subsection
23 (b) of this section, a licensee may receive a commission for service
24 provided under this article consisting of an hourly fee, a flat
25 rate, a percentage of the total amount paid by an insurer to resolve
26 a claim, or another method of compensation. The total commission
27 received may not exceed 10 percent of the amount of the insurance

1 settlement on the claim.

2 (b) A licensee may not receive a commission consisting of a
3 percentage of the total amount paid by an insurer to resolve a claim
4 on a claim on which the insurer, not later than 72 hours after the
5 date on which the loss is reported to the insurer, either pays or
6 commits in writing to pay to the insured the policy limit of the
7 insurance policy in accordance with Article 6.13 or Section 862.053
8 of this code. The licensee is entitled to reasonable compensation
9 from the insured for services provided by the licensee on behalf of
10 the insured, based on the time spent on a claim that is subject to
11 this subsection and expenses incurred by the licensee, until the
12 claim is paid or the insured receives a written commitment to pay
13 from the insurer.

14 (c) Except for the payment of a commission by the insured,
15 all persons paying any proceeds of a policy of insurance or making
16 any payment affecting an insured's rights under a policy of
17 insurance must:

18 (1) include the insured as a payee on the payment draft
19 or check; and

20 (2) require the written signature and endorsement of
21 the insured on the payment draft or check.

22 (d) A public insurance adjuster may not accept any payment
23 that violates Subsection (c) of this section.

24 (e) Notwithstanding any authorization the insured may have
25 given to a public insurance adjuster, a public insurance adjuster
26 may not sign and endorse any payment draft or check on behalf of an
27 insured.

1 Sec. 23. PROHIBITED CONDUCT. (a) A licensee may not,
2 directly or indirectly, act within this state as a public insurance
3 adjuster without having first entered into a contract, in writing,
4 on a form approved by the commissioner, executed in duplicate by the
5 licensee and the insured or the insured's duly authorized
6 representative. One copy of the contract shall be kept on file in
7 this state by the licensee and must be available at all times for
8 inspection, without notice, by the commissioner or the
9 commissioner's duly authorized representative.

10 (b) A licensee may not solicit or attempt to solicit a
11 client for employment during the progress of a loss-producing
12 natural disaster occurrence.

13 (c) A licensee may not solicit or attempt to solicit
14 business on a loss or a claim in person, by telephone, or in any
15 other manner at any time except between the hours of 9 a.m. and 9
16 p.m. on a weekday or a Saturday and between noon and 9 p.m. on a
17 Sunday. This subsection does not prohibit a licensee from
18 accepting phone calls or personal visits during the prohibited
19 hours from an insured upon the insured's initiation.

20 (d) A licensee may not use any form of contract that is not
21 approved by the commissioner. The contract must contain a
22 provision allowing the client to rescind the contract by written
23 notice to the licensee within 72 hours of signature and must include
24 a notice in 12-point boldface type, prominently displayed, the
25 statement: "WE REPRESENT THE INSURED ONLY." The commissioner by
26 rule may require additional prominently displayed notice
27 requirements in the contract as the commissioner deems necessary.

1 (e) A licensee may not knowingly make any false report to
2 the licensee's employer or client and may not divulge to any other
3 person, except as the law may require, any information obtained
4 except at the direction of the employer or the client for whom the
5 information is obtained.

6 (f) A licensee may not use a badge in connection with the
7 official activities of the licensee's business.

8 (g) A licensee may not permit an employee or agent, in the
9 employee's or agent's own name, to advertise, solicit or engage
10 clients, furnish reports or present bills to clients, or in any
11 manner conduct business for which a license is required under this
12 article.

13 (h) A licensee may not render services or perform acts that
14 constitute the practice of law, including the giving of legal
15 advice to any person in the licensee's capacity as a public
16 insurance adjuster.

17 (i) A licensee may not represent an insured on a claim or
18 charge a fee to an insured while representing the insurance carrier
19 against which the claim is made.

20 (j) A licensee may not solicit or attempt to solicit
21 business, directly or indirectly, or act in any manner on a bodily
22 injury loss covered by a life, health, or accident insurance policy
23 or on any claim for which the client is not an insured under the
24 insurance policy.

25 (k) A licensee may not, without the knowledge and consent of
26 the insured in writing, acquire an interest in salvaged property
27 that is the subject of a claim adjusted by the licensee.

1 (1) A licensee may not participate directly or indirectly in
2 the reconstruction, repair, or restoration of damaged property that
3 is the subject of a claim adjusted by the licensee or engage in any
4 other activities that may reasonably be construed as presenting a
5 conflict of interest, including soliciting or accepting any
6 remuneration from, or having a financial interest in, any salvage
7 firm, repair firm, or other firm that obtains business in
8 connection with any claim the licensee has a contract or agreement
9 to adjust.

10 (m) A licensee may not:

11 (1) use any misrepresentation to solicit a contract or
12 agreement to adjust a claim;

13 (2) advance money to any potential client or insured;

14 (3) pay, allow, or give, or offer to pay, allow, or
15 give, directly or indirectly, to a person who is not a licensed
16 public insurance adjuster a fee, commission, or other valuable
17 consideration for the referral of an insured to the public
18 insurance adjuster based on the insured entering into a contract
19 with that public insurance adjuster; a licensee may not otherwise
20 offer to pay a fee, commission, or other valuable consideration
21 exceeding \$100 to a person not licensed as a public insurance
22 adjuster for referring an insured to the licensee;

23 (4) use any letterhead, advertisement, or other
24 printed matter, or use any other means, to represent that the
25 licensee is an instrumentality of the federal government, of a
26 state, or of a political subdivision of a state; or

27 (5) use a name different from that under which the

1 licensee is currently licensed in an advertisement, solicitation,
2 or contract for business.

3 Sec. 24. RECORD MAINTENANCE. (a) A licensee shall keep a
4 complete record in this state of each of the licensee's
5 transactions as a public insurance adjuster. The records shall
6 include all of the following:

7 (1) the name of the insured;

8 (2) the date, location, and amount of the loss;

9 (3) a copy of the contract between the licensee and the
10 insured;

11 (4) the name of the insurer and the amount, expiration
12 date, and number of each policy under which the loss is covered;

13 (5) an itemized statement of the recoveries by the
14 insured from the sources known to the licensee;

15 (6) the total compensation received for the
16 adjustment; and

17 (7) an itemized statement of disbursements made by the
18 licensee from recoveries received on behalf of the insured.

19 (b) Records required to be kept under this section shall be
20 maintained in this state for at least five years after the
21 termination of a transaction with the insured and must be open to
22 examination by the commissioner.

23 Sec. 25. FIDUCIARY CAPACITY. (a) All funds received as
24 claim proceeds by a licensee acting as a public insurance adjuster
25 are received and held by the licensee in a fiduciary capacity. A
26 licensee may not divert or appropriate fiduciary funds received or
27 held.

1 (b) An applicant for a license to act as a public insurance
2 adjuster must, as part of the application, endorse an authorization
3 for disclosure to the commissioner of all financial records of any
4 funds the public insurance adjuster holds as a fiduciary. The
5 authorization shall continue in force and effect for as long as the
6 licensee continues to be licensed under this article.

7 Sec. 26. NOTICE TO LAST ADDRESS. Notice by registered mail,
8 return receipt requested, sent to the last known address of an
9 applicant for a license, licensee, or other person to whom notice is
10 required to be sent under this article, as reflected by the records
11 of the department, constitutes sufficient notice under this
12 article.

13 Sec. 27. RELOCATION TO ANOTHER STATE. (a) Not later than
14 the 30th day after moving from one state to another state, a
15 nonresident or resident public insurance adjuster licensed in this
16 state shall file with the department:

17 (1) the licensee's new address; and

18 (2) proof of authorization to engage in the business
19 of public insurance adjuster in the new state of residence if that
20 state requires licensure of public insurance adjusters.

21 (b) The department may not charge a fee or require a license
22 application under Subsection (a) of this section.

23 Sec. 28. ADVERTISEMENTS. Every advertisement by a licensee
24 soliciting or advertising business must display the licensee's
25 name, address, and license number as they appear in the records of
26 the commissioner.

27 Sec. 29. RULES. The commissioner may adopt reasonable and

1 necessary rules to implement this article, including rules
2 regarding the:

3 (1) qualifications of licensees, in addition to those
4 prescribed by this article, that are necessary to promote and
5 protect the public interest;

6 (2) regulation of the conduct of licensees;

7 (3) prescription of fees required by Section 11 of
8 this article; and

9 (4) advertisements under Section 28 of this article
10 and the definition of "advertisement" as the term is used in that
11 section.

12 Sec. 30. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

13 (a) The commissioner may deny an application for a license under
14 this article or suspend or revoke a license issued under this
15 article on the basis of:

16 (1) a violation of this article or of any rule adopted
17 by the commissioner under this article;

18 (2) a cause that constitutes grounds for denial of an
19 original license;

20 (3) misrepresentation or fraud in obtaining a license;

21 (4) failure to pass a required license examination;

22 (5) the misappropriation or conversion of money
23 required to be held in a fiduciary capacity;

24 (6) material misrepresentation, with intent to
25 deceive, of the terms of an insurance contract;

26 (7) engaging in a fraudulent transaction;

27 (8) demonstrated incompetence or untrustworthiness in

1 the conduct of the licensee's affairs under the license, as
2 determined by the commissioner;

3 (9) conviction of a felony by a final judgment in a
4 court of competent jurisdiction; or

5 (10) material misrepresentation, with intent to
6 deceive, of the person's status as a public insurance adjuster.

7 (b) If the department proposes to refuse to issue an
8 original license under this article or to suspend, revoke, or
9 refuse to renew a license under this article, the person affected is
10 entitled to notice and hearing as provided by Section 3A(b),
11 Article 21.01-2 of this code.

12 (c) A final order entered as a result of a hearing under this
13 section may be appealed to a court of competent jurisdiction as
14 provided by Subchapter D, Chapter 36 of this code.

15 (d) An order suspending a license issued under this article
16 must specify the period of the suspension not to exceed 12 months.

17 (e) The holder of a license that is revoked or suspended for
18 cause shall surrender the license to the commissioner on demand.

19 (f) The commissioner may issue a license or reinstate a
20 suspended or revoked license on a finding that the cause for
21 suspension, revocation, or refusal no longer exists.

22 (g) A person whose license is suspended under this article
23 may apply for a new license only after the expiration of the period
24 of suspension. A person whose license is revoked or whose
25 application for a license is denied, except for a failure to submit
26 a completed application, may not apply for a new license until the
27 fifth anniversary of:

1 (1) the effective date of the denial or revocation; or
2 (2) if the applicant or licensee seeks judicial review
3 of the department's action, the date of the final court order or
4 decree affirming that action.

5 (h) The commissioner may deny a timely application filed
6 under Subsection (g) of this section if the applicant does not show
7 good cause why the denial of the previous license application or the
8 revocation of the license should not be considered a bar to the
9 issuance of the new license. This subsection does not apply to an
10 applicant whose license application was denied for failure to:

- 11 (1) pass the required written examination; or
12 (2) submit a properly completed license application.

13 (i) The commissioner, in lieu of suspending or revoking a
14 license for a violation of this article or a rule adopted under this
15 article, may impose on a licensee an administrative penalty in an
16 amount not to exceed \$2,000 per violation if the commissioner
17 determines that such action better serves the purposes of this
18 article.

19 (j) The department may institute a disciplinary proceeding
20 against a licensee for conduct that the licensee committed before
21 the effective date of a voluntary surrender or automatic forfeiture
22 of the license. In the proceeding, the fact that the licensee has
23 surrendered or forfeited the license does not affect the licensee's
24 culpability for the conduct.

25 Sec. 31. AUTOMATIC FINES. Section 5A, Article 21.01-2 of
26 this code, applies to violations of this article.

27 Sec. 32. CRIMINAL PENALTY; SANCTIONS. (a) A person

1 commits an offense if the person violates this article. An offense
2 under this subsection is a Class B misdemeanor.

3 (b) If conduct that constitutes an offense under Subsection
4 (a) of this section also constitutes an offense under any other law,
5 the person committing the offense may be prosecuted under this
6 section or the other law.

7 (c) In addition to the criminal penalties imposed under
8 Subsection (a) of this section, a person in violation of this
9 article is subject to the sanctions provided by Section 7, Article
10 21.21 of this code, as if the person had violated an order under
11 that section.

12 SECTION 3.03. Section 3, Article 21.01, Insurance Code, is
13 amended to read as follows:

14 Sec. 3. APPLICATION. Except as otherwise provided by this
15 code, this subchapter applies to each person licensed in accordance
16 with:

- 17 (1) Section 4, Article 1.14-2, of this code;
- 18 (2) Section 7, Article 3.75, of this code;
- 19 (3) Subsection (c), Article 5.13-1, of this code;
- 20 (4) Article 10.37-3 of this code;
- 21 (5) Article 16.24A of this code;
- 22 (6) Section 9, Article 17.25, of this code;
- 23 (7) Article 21.07 of this code;
- 24 (8) Article 21.07-1 of this code;
- 25 (9) Chapter 29, Acts of the 54th Legislature, Regular
26 Session, 1955 (Article 21.07-2, Vernon's Texas Insurance Code);
- 27 (10) the Managing General Agents' Licensing Act

1 (Article 21.07-3, Vernon's Texas Insurance Code);

2 (11) Chapter 407, Acts of the 63rd Legislature,
3 Regular Session, 1973 (Article 21.07-4, Vernon's Texas Insurance
4 Code);

5 (12) Article 21.07-5 of this code;

6 (13) Article 21.07-6 of this code;

7 (14) [~~(13)~~] Article 21.07-7 of this code;

8 (15) [~~(14)~~] Article 21.09 of this code;

9 (16) [~~(15)~~] Article 21.11 of this code;

10 (17) [~~(16)~~] Article 21.14 of this code;

11 (18) [~~(17)~~] Article 21.14-1 of this code;

12 (19) [~~(18)~~] Article 21.14-2 of this code; or

13 (20) [~~(19)~~] Article 23.23A of this code.

14 SECTION 3.04. (a) If the commissioner of insurance elects
15 to appoint a public insurance adjusters examination advisory
16 committee under Subsection (c), Section 8, Article 21.07-5,
17 Insurance Code, as added by this article, the commissioner shall
18 appoint the members of the committee not later than the 60th day
19 after the effective date of this Act. If, on the effective date of
20 this Act, the commissioner has a contract with a testing service for
21 the examination of adjuster applicants under Article 21.07-5,
22 Insurance Code, as added by this article, the commissioner may add
23 the public insurance adjusters examination to the scope of that
24 contract, without seeking additional bids, at a fee not greater
25 than the highest adjuster examination fee charged.

26 (b) The commissioner of insurance shall adopt the
27 examination required by Section 8, Article 21.07-5, Insurance Code,

1 as added by this article, not later than January 1, 2004. Pending
2 the adoption of the examination, the commissioner may issue a
3 temporary license to practice as a public insurance adjuster to an
4 individual who satisfies all the requirements for issuance of the
5 license except the examination requirement. A temporary license
6 issued under this subsection expires June 1, 2004, and may not be
7 renewed except as determined by the commissioner.

8 (c) The commissioner of insurance shall adopt the code of
9 ethics prescribed under Section 18, Article 21.07-5, Insurance
10 Code, as added by this article, not later than September 1, 2004.

11 (d) Subject to the provisions of Subsections (a), (b), and
12 (c) of this section, the commissioner of insurance shall adopt
13 rules as necessary to implement Article 21.07-5, Insurance Code, as
14 added by this article, not later than January 1, 2004.

15 ARTICLE 4. EFFECTIVE DATE

16 SECTION 4.01. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 127 passed the Senate on April 2, 2003, by the following vote: Yeas 31, Nays 0; May 30, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 31, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 127 passed the House, with amendments, on May 24, 2003, by the following vote: Yeas 139, Nays 0, two present not voting; May 31, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor